
**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

SAFECO INSURANCE COMPANY OF
INDIANA a/s/o INSURED PATRICK
GILLESPIE, SUSAN GILLESPIE

Plaintiffs,

v.

FTL, INC. d/b/a SOLEUS NA, TCL
DELONGHI HOME APPLIANCES
(ZHONGSHAN) CO., LTD., DELONGHI
AMERICA, INC., TCL HOME
APPLIANCES (NORTH AMERICA)
COMPANY LIMITED, SOLEUS
INTERNATIONAL, INC., SOLEUS N.A.,
MJC AMERICA, INC., MJC AMERICA,
LTD. d/b/a SOLEUS INTERNATIONAL,
MJC AMERICA HOLDINGS CO., INC., and
MENARDS, INC.,

Defendants.

Case No. 1:20-CV-00297-JRS-TAB

**PLAINTIFF’S OBJECTION TO DEFENDANT, MENARDS, INC.’S NOTICE OF
REMOVAL**

Plaintiff, Safeco Insurance Company of Indiana, a/s/o Patrick Gillespie and Susan Gillespie (Safeco), by counsel, objects to Defendant, Menards, Inc.’s attempt to invoke this Court’s diversity jurisdiction herein as reflected by its Notice of Removal (ECF No.1) and in support thereof states as follows.

A. Menards has failed to plead the principal places of business of incorporated co-Defendants and the citizenship of all partners of unincorporated co-Defendants required to invoke the Court’s diversity jurisdiction.

A party seeking to invoke diversity jurisdiction under 28 U.S.C § 1332 must present a claim between parties of diverse citizenship that exceeds the jurisdictional amount. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 513 (2006). The citizenship of an unincorporated association is “the citizenship of all the limited partners, as well as of the general partner.” *Hart v. Terminex*

Int'l, 336 F.3d 541, 542 (7th Cir. 2003). Menards has failed to properly plead the citizenship of any of the other co-Defendants in this action.

Menards must properly plead, for each co-Defendant, the foreign or domestic state of incorporation and the foreign and the foreign domestic state in which it has its principal place of business for the Court to determine if diversity of jurisdiction exists. Similarly, as noted in the Court's prior Order to Show Cause, for each unincorporated co-defendant, Menards must properly plead the citizenship of all their partners.

B. Menards petition for removal fails to include all of the co-defendants and it has failed to provide any explanation for their absence.

As a general rule, all defendants must join in a removal petition in order to effect removal. *N. Ill Gas Co. v. Airco Indus. Gases*, 676 F.2d 270, 272 (7th Cir. 1982). A petition filed by less than all the named defendants is considered defective if it fails to contain an explanation for the absence of co-defendants. *Id.* at 273. Menards has failed to add any of its co-defendants to the notice of removal and has failed to provide any explanation for their absence. Absent unanimity among the defendants for removal to federal court, Menards' petition must fail.

Wherefore, Plaintiff respectfully requests that the Court deny Defendant, Menards, Inc.'s Petition for Removal and that the Court refuse to accept diversity jurisdiction herein.

Date: February 28, 2020

/s/ Edgar R. Lantis

Edgar R. Lantis, #15776-29

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CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2020, the forgoing has been filed through the Court's ECF system and notice has been electronically served on all counsel of record. Parties may access this filing through the Court's system.

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La Habra, CA 90631

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Shenghui North No. 50
Zhongshan, GD (Guangdong) 528400
China

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Saddle River, NJ 07458

TCL Home Appliances (North America) Company Limited
2455 Anselmo Drive, Suite 101
Corona, CA 92879

Soleus International, Inc.
20035 E. Walnut Drive N.
Walnut, CA 91789

Soleus N.A.
935 S. Lawson Street
Rowland Heights, CA 91748

MJC America, Inc.
20035 E. Walnut Drive N
Walnut, CA 91789

MJC America, Ltd. d/b/a Soleus International
20035 E. Walnut Drive N
Walnut, CA 91789

MJC America Holdings Co., Inc.
c/o Charely Loh
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El Monte, CA 91731

Menards, Inc.
c/o Jessica N. Hamilton
KOPKA PINKUS DOLIN PC
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/s/ Edgar Lantis
By: _____
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